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**State of Utah**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Division of Oil, Gas & Mining**

MICHAEL R. STYLER  
Executive Director

JOHN R. BAZA  
Division Director

Outgoing  
C0150032  
#3604  
K

September 21, 2010

CERTIFIED RETURN RECEIPT  
7005 0390 0000 7507 4726

Dave Shaver  
Genwal Resources, Inc.  
P. O. Box 910  
East Carbon, Utah 84520-0910

Subject: Proposed Assessment for State Violation No. 10065, Genwal Resources, Inc.,  
C/015/0032, Outgoing File, Task ID #3604

Dear Mr. Shaver:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above referenced notice of violation. Division Inspector, Kevin Lundmark, issued the notice of violation on August 25, 2010. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information, which was submitted, by you or your agent within fifteen (15) days of receipt of this Cessation Order has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

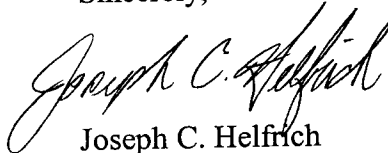
1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. The Division Director will conduct this conference. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

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Mr. Dave Shaver  
September 21, 2010

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

**If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment.** Please remit payment to the Division, mail c/o Suzanne Steab.

Sincerely,



Joseph C. Helfrich  
Assessment Officer

Enclosure

cc: OSM Compliance Report  
Vicki Bailey, DOGM  
Suzanne Steab, DOGM  
Price Field Office

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PS Form 3800, June 2002

See Reverse for Instructions

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2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

**PROVIDE AN EXPLANATION OF POINTS:**

***\*\*\*According to the information provided in the inspector statement "A release of sediment (including coal and coal fines) to Crandall Creek occurred. The sediment was not treated prior to discharge to the creek."***

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

**PROVIDE AN EXPLANATION OF POINTS:**

***\*\*\* According to the information provided in the inspector statement "The event occurred sometime between the afternoon of August 5 to August 9, 2010. Heavy rainfall triggered a debris flow of soil and coal from the sandstone rock face at the east side of the highwall. The debris flow deposited sediment and coal into the treatment basin, the catch basin for outfall 002, and disturbed drainage ditch DD-10. Sediment and coal which entered outfall 002 were discharged to Crandall Creek without treatment. Observations and sampling results from the time of the event are not available. On August 12, 2010 coal was visible in Crandall Creek from the outlet of the 6-ft CMP bypass to before the first beaver dam downstream of same outlet. No coal was observed in Crandall Creek at the permit boundary; however, it is highly likely that sediment and coal travelled off-site during the storm event". Although sediment and coal fines entered the stream there is no supporting evidence to indicate that there were impacts to the fisheries, aquatic macroinvertebrates, vegetation or associated wildlife species.***

**B. HINDRANCE VIOLATION (Max 25 pts.)**

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?                       
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

\*\*\*

TOTAL SERIOUSNESS POINTS (A or B) 20

III. NEGLIGENCE (Max 30 pts.)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE \_\_\_\_\_

ASSIGN NEGLIGENCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

\*\*\* *According to the information provided in the inspector statement, no negligence occurred as a result of the violation.*

IV. GOOD FAITH (Max 20 pts.)

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?  
IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

\*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- |   |   |             |
|---|---|-------------|
| X | Rapid Compliance  | -11 to -20* |
|   | (Permittee used diligence to abate the violation)   |             |
| X | Normal Compliance   | -1 to -10*  |
|   | (Operator complied within the abatement period required)  |             |
| X | Extended Compliance   | 0           |
|   | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) |             |
|   | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)   |             |

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_

ASSIGN GOOD FAITH POINTS 20

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\* According to the information provided in the inspector statement, "Upon discovering the release on August 9, 2010, the Operator immediately constructed a ditch at the base of the sandstone face to divert potential future debris flows to the sediment pond via disturbed ditch DD-10 and removed coal from Crandall Creek. The Operator promptly notified DWQ and DOGM of the release."**

**Good faith points will be considered upon termination of the violation.**

**V. ASSESSMENT SUMMARY**

NOTICE OF VIOLATION # **CO 10065**

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>0</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 20</u>
	TOTAL ASSESSED POINTS	<u>0</u>

**TOTAL ASSESSED FINE** \$ 0